

Brussels, 27 January 2005

**IRU POSITION**  
**ON THE PROPOSAL FOR A REGULATION ON COMPENSATIONS FOR NON-COMPLIANCE**  
**WITH CONTRACTUAL QUALITY REQUIREMENTS APPLIED TO RAIL FREIGHT SERVICES**

**I. ANALYSIS**

In the 2001 White paper, the European Commission announced its intention to propose a Regulation on compensations in case of non-compliance with contractual service requirements in rail freight services.

On the 3<sup>rd</sup> March 2004, the European Commission adopted its third railway package; it contains four proposals which the Commission believes will contribute to the revitalisation of Europe's railways. Among these, a Regulation on compensation in cases of non-compliance with contractual quality requirements for rail freight services.

- The overall development in the service quality of international rail freight services is alarming.
- The current framework of compensations to customers in international rail freight transport is defined in the CIM annex to the COTIF (Convention concerning International Carriage by Rail of 9 May 1980). The proposed Regulation creates an EU framework for compensations in rail freight which starts from the basic principles of the CIM provisions but tries to reflect better the realities of today's rail freight transport markets.
- The basic parameters of the proposed EU Regulation on compensations are: the definitions of liability, quality criteria related to rail freight transport, compensation levels, a quality monitoring scheme, liability limitations and the responsibilities of rail infrastructure managers
- The compensation level for loss of and damage to the goods transported is set at 75 euros per Kg of gross mass damaged (tripling the value by the CIM of COTIF).
- The compensation levels for delays will be of at least 5% and at most 25% of the transport price.

**II. IRU POSITION**

The IRU welcomes the European Commission aiming to establish a compensation regime in case of non-compliance with basic quality requirements. A mandatory compensation scheme would, indeed, encourage railway companies to improve the efficiency and flexibility of their rail freight services.

However, the IRU believes that too much contractual freedom is left to the contracting parties and would prefer a more stringent regulatory approach: notably to take into account the importance, in practice, of the time when goods are delivered and not the time they arrive (which are too often different); to define when compensation is due (there is a risk that payments are made months or even years later); and the laying down of a timeframe for the introduction of complaints.

Moreover, the IRU asks that capacity problems at terminals be addressed, as too often, these cause extensive loss of time, as much as half a day, and the party responsible for such delays must be defined.

Finally, the IRU insists that the authorities clearly define who should pay when several railway companies are implied in the transport operation.

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